

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF SOUTH DAKOTA

3 WESTERN DIVISION

4 * * * * * UNITED STATES OF AMERICA, * CR No. 20-50095
Plaintiff, *
5 vs. * SENTENCING HEARING
6 * APRIL 28, 2023
CODY WAYNE HOPKINS, *
7 Defendant. *
* * * * *

8
9 REDACTED PUBLIC TRANSCRIPT OF SENTENCING HEARING

10 BEFORE THE HONORABLE JEFFREY L. VIKEN,

11 U.S. DISTRICT COURT JUDGE

12 **(PURSUANT TO CRIMINAL LOCAL RULE 57.10, PORTIONS OF ALL**
13 **CHANGE OF PLEA AND SENTENCING TRANSCRIPTS ARE RESTRICTED)**

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1 PROCEEDINGS ~ April 28, 2023

2 Before Hon. JEFFREY L. VIKEN, Judge

3
4 (Proceedings in open court at 2:56 p.m.)

5 THE COURT: This is the time set for sentencing
6 in the case of United States versus Cody Wayne Hopkins,
7 our file 20-50095.

8 May I have the appearance of government counsel,
9 please?

10 MS. COLLINS: Sarah Collins and Kelsey Blair on
11 behalf of the United States.

12 THE COURT: Afternoon, counsel.

13 MS. COLLINS: Afternoon.

14 THE COURT: Defense?

15 MS. FULLER: Alecia Fuller with Mr. Hopkins.

16 THE COURT: Good afternoon, Ms. Fuller.

17 MS. FULLER: Hello.

18 THE COURT: Good afternoon, Mr. Hopkins.

19 THE DEFENDANT: Good afternoon.

20 THE COURT: We have Ms. Nikole Miller with us
21 from U.S. Probation. Ms. Miller prepared your presentence
22 investigation report.

23 Have you had enough time to work with Ms. Fuller
24 to prepare for sentencing?

25 THE DEFENDANT: Yes.

1 THE COURT: Well, as we go along, if you wish to
2 speak with your attorney, let me know that. We'll take a
3 break so you can work with Ms. Fuller.

4 THE DEFENDANT: Understood.

5 THE COURT: Sure.

6 Now, you're before the Court on a verdict
7 returned by the jury on August 25th of 2022. The verdict
8 of the jury was a unanimous finding that you're guilty of
9 attempted enticement of a minor using the internet; and
10 that had sexual activity taken place, the jury found it
11 would have constituted rape in the fourth degree under
12 South Dakota law and sexual contact with a child under 16
13 years of age. Those are matters which must be proven in a
14 trial of that nature, and they were proven beyond a
15 reasonable doubt. So that's what brings you here,
16 Mr. Hopkins.

17 I did preside over the trial, and I well
18 remember the trial, of course, as we discuss this case for
19 sentencing.

20 The presentence investigation report, no United
21 States' objections, Ms. Collins?

22 MS. COLLINS: That's correct.

23 THE COURT: There are defense objections at
24 docket entry 91, and we'll turn to those, Ms. Fuller.

25 There was a psychological evaluation and sexual

1 risk assessment by Dr. Frank Detillio. It's a rather
2 extensive report. I did review it carefully. It was
3 prepared for the defense.

4 I assume you wanted me to see it, Ms. Fuller?

5 MS. FULLER: I did. I filed it, Your Honor.

6 THE COURT: Yes. That's why I had it.

7 I respect you writing a letter, Mr. Hopkins,
8 about your feelings about the case and struggles you've
9 had and, you know, where we should be had heading in
10 considering some of the factors for sentencing here.

11 You're asking for mercy, which of course you're
12 free to do. Given the mandatory minimum sentence here,
13 it's something we can discuss, but nothing about which I
14 can do anything with regard to a lesser sentence.

15 You point out that you should have, you know,
16 sought therapy and medication, therapy much earlier on.
17 You had manic-depressive symptoms. You did great in high
18 school, but then really struggled: Suicide attempts, some
19 really rugged life experiences that you went through. And
20 your parents wrote they didn't recognize any of these
21 symptoms. They apparently thought you were fine.

22 Now, your point of view might be somewhat
23 different than that because you really were having a rough
24 time. You've got a young son. I think he's eight now?
25 [X.H.]?

1 THE DEFENDANT: He's nine now.

2 THE COURT: Is he nine? So I mean you've got a
3 son to look forward to when you get out of custody in the
4 case.

5 And, you know, I think in your view this is an
6 isolated incident. I hope that's true with underage
7 people, but I have no information contrary to that.

8 You know, you have good work goals. You want to
9 own your own shop. You've got a background that's solid.
10 I believe you have a former employer who's interested in
11 bringing you back in. Is that correct?

12 MS. FULLER: That's correct, Your Honor.

13 THE COURT: Yeah. And you say you've got a lot
14 of therapy and work ahead of you to deal with your
15 conditions, and I agree with you. I think that's good
16 insight on your part. Apparently the meds have helped
17 you, when you've gone into custody, and you're much more
18 clear minded now than you were. Yeah, well, that's very
19 positive.

20 Support letters, Desiree Fahey says you're an
21 awesome friend. You help everybody. You're an amazing
22 dad. Very positive letter.

23 Ralph and Tina Hopkins, your parents, wrote
24 about your successes in high school. You grew up in a
25 small town. They thought things were fine. They didn't

1 see any problems, at lease that's what they're writing to
2 me. They point out [X.H.] is in an unstable situation,
3 which is a reason to have you out of custody sooner rather
4 than later. And they tell me that your former employer
5 wants you back. You're an integral part of the family.

6 You have family support, they make that clear,
7 which is important coming out of custody. You need family
8 support.

9 And Dustin, your youngest brother, wrote on your
10 behalf also. Said, you know, you came from a law-abiding
11 family. You're a great person. He was surprised by the
12 conviction and nature of the offense here and of course is
13 going to support you and says you have great potential to
14 be a better person. So those are all very positive
15 support letters.

16 Any additional material for my review,
17 Ms. Collins?

18 MS. COLLINS: No, Your Honor.

19 THE COURT: Ms. Fuller?

20 MS. FULLER: No, Your Honor.

21 THE COURT: Well, these federal sentencing
22 guidelines were an attempt by Congress to make sentencing
23 on individual case types uniform across all the federal
24 courts. So they devised a plan to put in federal
25 sentencing guidelines and a Sentencing Commission to

1 administer the guidelines in about 1987. And the point
2 is, a whole series of numbers, actually or theoretically,
3 based on massive criminal statistics and sentencing
4 statistics databases that underlie the range of months of
5 imprisonment that are produced by the federal sentencing
6 guidelines. So there are aggravating and mitigating
7 factors considered under the guideline system. But of
8 course it is a one-size-fits-all system.

9 We've got the parallel and separate sentencing
10 system for discretionary sentencing, 18 United States Code
11 Section 3553(a). All of that is very important in most
12 cases.

13 But when Congress takes on the sentencing
14 function themselves and here puts in place a ten-year
15 mandatory minimum sentence, there isn't any federal judge
16 in the United States that could sentence you to anything
17 less than that. It is the harsh reality of committing a
18 crime which was, as a jury found, using the internet to
19 attempt to entice a 13-year-old female into a sexual
20 relationship.

21 So Congress made findings, took that extremely
22 seriously, and that's the reason that they have the
23 mandatory minimum in place, ten years to life as a maximum
24 here.

25 Let's turn to the objections. Objection one is

1 to paragraphs 9 through 17. This is an appropriate set of
2 objections, because Ms. Fuller needs to deny every fact
3 that would underlie or support your conviction in order to
4 have an appeal. I don't know -- is there going to be an
5 appeal in the case?

6 MS. FULLER: I'm not a hundred percent certain.
7 I just wanted to preserve the issue in case he decides
8 to --

9 THE COURT: Well, yes, and that's the way you
10 do. You preserve the issue for the U.S. Court of Appeals
11 by denying all the facts that underlie the conviction.
12 And 3 through 17 does that.

13 Now, what that would do is shift to the
14 government the obligation to prove those facts just by the
15 greater weight of evidence in a sentencing hearing. But
16 the facts were found by the jury beyond a reasonable
17 doubt.

18 Ms. Collins, do you wish to speak to that?

19 MS. COLLINS: No, Your Honor. I think the
20 record made at the trial and the jury's finding is
21 sufficient to prove and establish all of those facts that
22 are set forth.

23 THE COURT: Yes. Presiding over the trial,
24 that's the way I recall it as well, and the jury finding
25 is clear.

1 Did you have further record on the first
2 objection?

3 MS. FULLER: No further record.

4 THE COURT: Yeah, I find that paragraphs 9
5 through 17, those facts are proven beyond a reasonable
6 doubt at trial which resulted in your conviction. So
7 objection one is overruled.

8 Objection two is to -- is it paragraph --
9 paragraph 19, which talks about obstruction of justice.
10 And there is a guideline that says if I find that you
11 committed perjury at trial, you know, it's obstruction of
12 justice, and you can have an aggravating addition of more
13 points on your guideline calculation.

14 Did you wish to speak to that?

15 MS. FULLER: Nothing further than the objection,
16 Your Honor.

17 THE COURT: Yeah. Ms. Collins?

18 MS. COLLINS: I don't have any record to make.

19 THE COURT: No. And the U.S. Probation Officer
20 here, Ms. Miller, didn't include obstruction of justice.
21 So objection two is overruled. Paragraph 19 is just a
22 recitation of what the underlying matters would be as
23 required to make a finding for obstruction.

24 I do not find any obstruction here, and so
25 objection two is granted and obstruction is not applied.

1 Are there additional defense objections,
2 Ms. Fuller?

3 MS. FULLER: No, Your Honor.

4 THE COURT: And none from the United States,
5 Ms. Collins?

6 MS. COLLINS: That's correct.

7 THE COURT: Well, I'm going to put the federal
8 sentencing guideline calculation on the record,
9 Mr. Hopkins. It's driven by the mandatory minimum set by
10 Congress. But lets put the calculation on the record. In
11 the event of an appeal, we want to make sure that the
12 Court has a proper record to review for you, including the
13 guideline calculation.

14 And so the offense of conviction here, attempted
15 enticement of a minor using the internet, every federal
16 felony is given a starting point or base offense level,
17 which is a number which starts this calculation. And
18 here, the starting point or base offense level for this
19 crime is 28.

20 In paragraph 23 there's the specific offense
21 characteristic of using an internet-capable device in
22 committing the crime. Well, that's fine. I'll leave it
23 in the guideline calculation. But the crime you were
24 convicted of can't be committed without using the
25 internet. And so as far as I'm concerned, this is just an

1 antiquated, inappropriate two-level addition in paragraph
2 23, which I'll take care of by a downward variance when we
3 get to that point.

4 So, your adjusted offense level is 30.

5 No acceptance of responsibility. There's no
6 penalty in this Court, Mr. Hopkins, for going to a jury
7 trial. That's your absolute right. But there's no
8 reduction for acceptance of responsibility, of course,
9 because you have confirmed to the jury that you're
10 innocent of this crime and you've explained why you
11 testified that way.

12 So the total offense level is 30.

13 Criminal history is also scored. I have to tell
14 you, in this offense type it's very common that the person
15 who is convicted or pleads guilty to enticement of a minor
16 using the internet has no criminal history of any kind.
17 And that's the case with you. So you're in the most
18 favorable sentencing category, Criminal History Category I
19 on the sentencing table.

20 Page 14 has the guideline calculation. You'll
21 find it in the paragraph 67. Based on an offense level of
22 30 and a Criminal History Category of I, the guideline
23 range for imprisonment is 97 months to 121 months.

24 Well, the mandatory minimum is 120 months, and
25 so that's the bottom of the guideline range. So the range

1 is 120 months, ten years, to 121 months, ten years and one
2 month. That's the guideline range here.

3 Now, supervised release. We don't have parole
4 in the federal system. We have what's called supervised
5 release, which is a period of supervision after a custody
6 sentence for several purposes: One, there are people who
7 have a criminal history and they're a risk to the
8 community when they come out of prison for committing
9 future crimes. And so having a person under the
10 supervision of a probation expert makes it less likely the
11 person would commit crimes in the community.

12 I don't have that concern for you, but I am
13 concerned that you have access to rehabilitation and
14 treatment as part of your supervised released term.

15 So here supervised release is five years to life
16 on supervision. I'm sure five years of supervision after
17 custody is enough. But that's the range both under the
18 guidelines and the statute.

19 Because of the mandatory minimum, of course,
20 there's no probation eligibility in the case.

21 There is a \$100 special assessment in every
22 federal felony sentencing; mandatory because the money
23 goes into a crime victim's assistance fund, nationally.
24 If you cannot pay the hundred dollars, then I'll waive the
25 interest requirement on it so you can pay it over the

1 course of your judgment. So that has to be imposed, and
2 I'll deal with it in that way.

3 The Justice for Victims of Trafficking Act of
4 2015 would apply, Ms. Collins; is that accurate?

5 MS. COLLINS: It is.

6 THE COURT: Congress, in passing that law, made
7 an exception and waives the \$5,000 special assessment for
8 an indigent person. And according to paragraph 64 of the
9 presentence report, you are an indigent person, so that
10 \$5,000 assessment will not apply.

11 The guideline range for a fine is \$30,000 to
12 \$300,000. This is not a case where a fine would serve any
13 purpose, so none will be imposed.

14 Ms. Collins, is that an accurate statement of
15 the statutory and guideline factors for sentencing?

16 MS. COLLINS: Yes, Your Honor.

17 THE COURT: Do you agree, Ms. Fuller?

18 MS. FULLER: I do.

19 THE COURT: Yes. Well, thank you for the
20 report, Ms. Miller. I'm adopting it as it is written.
21 It's certainly accurate based on presiding over the trial
22 and listening to the testimony in the case.

23 So when we turn to sentencing, I am going to
24 grant a two-level downward variance to eliminate the use
25 of an internet device in committing the crime. That's the

1 only way the crime is committed, so there's no point in
2 adding two levels as an aggravating factor. And if there
3 was, I have a policy disagreement with it, in any event,
4 with the Sentencing Commission.

5 Any record on it in this case, Ms. Collins?

6 MS. COLLINS: No, Your Honor. Thank you.

7 THE COURT: All right. Very well.

8 So two-level downward variance. That changes
9 the total offense level to 28, rather than 30. Criminal
10 History Category I. The guideline range for imprisonment
11 without the mandatory minimum would have been 78 months to
12 97 months in federal custody. But there's no way to
13 sentence below the mandatory minimum. That's a
14 congressional determination. So it doesn't change your
15 guideline range in the case, actually.

16 All right. That variance, having been put in
17 place, I'd turn to you, Ms. Fuller, and Mr. Hopkins, if
18 you wish to speak about this.

19 MS. FULLER: Thank you, Your Honor.

20 I wish you could ask for less on behalf of
21 Mr. Hopkins, but I am asking for the mandatory minimum of
22 the 120 months. All the reasons that I would ask for a
23 downward variance support the mandatory minimum as well:
24 His age. It appears aberrant behavior, as he has zero
25 criminal history, as the Court pointed out.

1 The Court, also, when speaking about the
2 reviewing of the records, mentioned my other reasons,
3 which are his employment record. I do note that his
4 employer didn't send back the employer verification; but
5 the United States Probation Officer that supervised him
6 had contact with his employer and I think could confirm
7 that he was a good worker and he would take him back. And
8 as did his parents.

9 THE COURT: Yeah, Ms. Miller confirmed that for
10 me before we came in.

11 MS. FULLER: Thank you.

12 I'd also highlight his family ties and
13 responsibility, and then his -- also his mental and
14 emotional state. I do think he's, today, in a better
15 place than he certainly was a couple years ago with
16 understanding his mental health a little bit better as
17 well as being on medications, kind of helping him round
18 out to be able to make better decisions in the future.

19 Really, rehabilitation is what he needs, and I
20 wish we could get to that sooner than 120 months. Because
21 I think that with rehabilitation and the services of
22 United States Probation he'll never see the inside of a
23 courtroom again. I think Mr. Hopkins is committed to
24 that.

25 I'd also note he does have great remorse. And

1 I'd highlight that, you know, his concern and his remorse
2 is that there are real victims out there. And for a long
3 time he thought there was in this case. And I think that
4 that struck him that he recognized that impact on people,
5 or victims, in a case like this.

6 So for all of those reasons, we have no
7 objection to the special conditions. I think they're
8 appropriate. I would ask that you order them as a
9 condition of supervised release. But, regretfully, I'm
10 asking for 120 months today.

11 THE COURT: Okay. But you're taking the
12 position that Mr. Hopkins is not guilty? That is,
13 contrary to the jury finding?

14 MS. FULLER: I'm taking the position that
15 Mr. Hopkins has never wavered from -- in any conversations
16 with me as well as his testimony; that he acknowledges he
17 sent the messages, he acknowledges what they appeared
18 like; but his intentions were to help. And he has never
19 wavered from that.

20 And he's extremely remorseful that if it was a
21 real girl -- and when he came to see me after he was
22 released from custody, Your Honor, the first thing he
23 asked me was if she's getting help. And my confusion was
24 how do you not know it was a Rally sting at this point?
25 But he genuinely had a concern for whoever was on the

1 other end of that.

2 Did he handle it correctly? Absolutely not.
3 But he's never wavered from what his goal was on that
4 evening.

5 I recognize the jury didn't believe that, but
6 that's the jury determination. It's not what Mr. Hopkins
7 believes in his heart where his intentions were.

8 THE COURT: Well, thank you for that,
9 Ms. Fuller. I appreciate it.

10 Now, do you wish to speak today, Mr. Hopkins?

11 THE DEFENDANT: If you don't mind, sir.

12 THE COURT: You take as much time as you wish.
13 You just remain seated. That's fine.

14 THE DEFENDANT: Okay. I just wanted to say that
15 I know you read my letter and all that. But I just wanted
16 to say that I am deeply remorseful for my conduct that
17 day. There is no excuses for the language that I used for
18 somebody that at that time I felt was a minor. I wish I
19 could turn back the time, make different choices, but I
20 can't do that. I'm just ready to start my rehabilitation
21 and BOP custody. And that's all.

22 Thank you.

23 THE COURT: Yeah. Well, that's a realistic view
24 of what lies ahead for you. And supervised release is
25 going to be critical for you. You need ongoing mental

1 health attention. You do need the sex offender
2 treatment -- that's going to be part of your
3 supervision -- and the other special conditions we put in
4 place for your individual case. And so you're 32 years
5 old, looking forward, you'll be out of custody and back to
6 family and work at some point. So, I guess that's where
7 you should set your vision; rehabilitation and treatment.

8 Thank you for speaking about that today and for
9 writing. I do appreciate it.

10 Ms. Fuller, anything else?

11 MS. FULLER: No, thank you.

12 THE COURT: Ms. Collins?

13 MS. COLLINS: Your Honor, the United States is
14 not seeking a sentence above the mandatory minimum of ten
15 years. I don't need to make a further record unless the
16 Court would like to hear from me further?

17 THE COURT: No, we all -- you, Ms. Collins,
18 Ms. Fuller, Mr. Hopkins, we were all at the trial. We
19 know how aggravating this is and why Congress punishes so
20 heavily. We do know there are real 13-year-old girls out
21 there who are enticed and exploited by adults. That's why
22 Congress acts with such a stern voice in setting a
23 mandatory minimum of ten years in the case.

24 So, I -- I mean why balance the 3553(a) factors?
25 I suppose it's useful to the extent that the outcome of

1 fashioning a sufficient but not greater than necessary
2 would lead us to the same outcome, a ten-year sentence,
3 which is the mandatory minimum.

4 But about the guidelines do account for the
5 seriousness of the offense, of course. Punishment is
6 required, and it's been put in place by Congress, and I
7 will certainly follow that.

8 Your personal history and characteristics, well,
9 that's forward-looking. I have no doubt, of course, that
10 this crime was committed. But you have found out a lot of
11 things about yourself since you committed this crime. And
12 you're on medications, and you have a treatment and
13 rehabilitation plan ahead of you that we'll put in place
14 here.

15 I think the sentence certainly sends a message
16 to the larger community that there are very serious
17 consequences for this type of this behavior involving
18 enticement of a 13-year-old girl.

19 Protecting the community from future crimes,
20 I've referred to that before. I don't think you're a risk
21 to commit other crimes, especially with sex offender
22 evaluation and treatment and mental health treatment.
23 Rehabilitation and treatment is a weighty factor, but
24 first comes the need for punishment under 3553(a).

25 And so whether I'm sentencing under the federal

1 sentencing guidelines or under the discretionary
2 sentencing statute, the outcome is the same; sufficient
3 but not greater than necessary sentence, according to
4 Congress, is ten years in prison. And that's what I must
5 impose.

6 So, if you would please stand, sir, I will
7 announce your sentence.

8 Based on the Constitutional and statutory
9 authority vested in this Court, it's the judgment of the
10 Court that Cody Wayne Hopkins is hereby committed to the
11 custody of United States Bureau of Prisons to be
12 incarcerated for a term of 120 months, the mandatory
13 minimum of ten years in federal prison.

14 Upon release from imprisonment, Mr. Hopkins, you
15 are placed on supervised release for a period of five
16 years. You start your supervision by reporting to the
17 U.S. Probation Office in the district to which you are
18 released within 72 hours had from your release of custody.
19 So I don't know if you'll be released to Pennsylvania,
20 your home base, or if you will be released back here to
21 South Dakota, which seems likely. But you need to start
22 your supervised release by reporting within 72 hours.
23 You'll be directed which probation office is the location
24 where you should report.

25 You know, the mandatory conditions of supervised

1 release in federal law do apply to you. On supervision
2 you must not commit another federal, state, or local
3 crime.

4 You, of course, cannot illegally possess a
5 controlled substance.

6 You must submit to one drug test within 15 days
7 from your release of custody and at least two drug tests
8 thereafter as directed by probation. You've got to be
9 clean and sober on federal supervision.

10 You have to cooperate in the collection of DNA,
11 which is a federal sentencing requirement.

12 And, because of the nature of the offense, you
13 have to comply with the terms of the Sex Offender
14 Registration and Notification Act as required by federal
15 law. Failure to register under the federal statute is a
16 federal felony, which is prosecuted everywhere in the
17 country. So you will learn the registration requirements
18 when you're coming out of custody. Whatever state you're
19 living in will have its own registration requirements as
20 well. So those are matters you're going to need to learn.

21 All of these conditions will be reviewed with
22 you by your supervising officer when you're coming out of
23 custody. But you'll also see them in writing in the
24 judgment in your case.

25 So those are the mandatory conditions.

1 In your judgment you will see the standard
2 conditions of supervised release. Those standard
3 conditions are adopted by the district judges in South
4 Dakota, and they're part of the supervised release and
5 must be followed.

6 And then we've designed six special conditions
7 as conditions of release in your case and must be
8 completed successfully to finish your sentence
9 successfully.

10 First, you must not initiate, establish, or
11 maintain contact with any male or female child under the
12 age of 18, nor attempt to do so, except under
13 circumstances approved in advance and in writing by the
14 probation office. Both genders are involved, after my
15 review of the psychosexual evaluation in the case.

16 Now, second condition is you must participate in
17 the probation officer's computer internet use and
18 monitoring program. That program requires to you comply
19 with the provision of the participation agreement used in
20 the District of South Dakota. Participation in that
21 monitoring program, Mr. Hopkins, is in lieu of having all
22 access to a computer denied. Which ten years from now the
23 whole world is going to have some form of technology, and
24 so this is an accommodation that if you follow the rules
25 of this program, you'll be able to have access to a device

1 under supervision.

2 But you must consent at the direction of the
3 probation office to having installed on your computers or
4 whatever the device is ten years from now at your expense
5 any hardware or software system to monitor computer use or
6 prevent access to particular materials. So that's an
7 accommodation that will be worked out when you're coming
8 out of custody.

9 Third, you must not reside with any male or
10 female child under the age of 18, nor attempt to do so,
11 without permission in writing in advance from the U.S.
12 Probation Office. That's a protective factor for
13 children. We don't know yet from sex offender treatment
14 and polygraph examinations what the risk factors are for
15 you. So that's in place, and you'll work out the
16 realities of that with your supervising officer.

17 Fourth, you must undergo inpatient or outpatient
18 psychiatric or psychological treatment as directed by
19 probation and take any prescription medications considered
20 necessary by your treatment provider. So you'll have a
21 mental health professional under supervision. And that's
22 the kind of care that you wish you had gotten earlier in
23 life. Well, it will come a bit later now, but I think
24 it's very important to help you achieve a healthy state
25 and to live lawfully.

1 So the fifth condition is you must submit your
2 person, your residence, your place of business, your
3 vehicle, your possessions, any computers, smart phone,
4 tablet, or internet-capable device and the passwords for
5 those devices, you submit all of that to search conducted
6 by a United States Probation Officer who's searching
7 without a warrant if that officer has reasonable suspicion
8 that you have violated a term of your supervised release.

9 The sixth condition is you must participate in
10 sex offender treatment and submit to polygraph
11 examinations as directed by the U.S. Probation Office.

12 Restitution is mandatory, but not in this case
13 type. This was a sting operation. There isn't an actual
14 victim involved, fortunately. I do have to order you pay
15 a \$100 special assessment for the crimes victim's
16 assistance fund. And the \$5,000 special assessment under
17 the Justice for Victims of Trafficking Act of 2015, that's
18 waived because you're an indigent person, according to
19 paragraph 64 of the presentence. And Congress provided
20 that if you are indigent, that assessment does not apply.
21 So it will not be imposed on you.

22 You shall forfeit your interest in the following
23 property to the United States. It's the cell phone used
24 in the commission of the offense:

25 One Google cellular telephone, Verizon SIMM

1 ICID -- get ready, Sheri, it's a long series of numbers --
2 89148000004442173723.

3 That's forfeited to the United States, of
4 course, Mr. Hopkins. Please be seated, sir.

5 Ms. Collins, is there any legal reason why the
6 sentence should not be imposed as announced?

7 MS. COLLINS: No, Your Honor.

8 THE COURT: Ms. Fuller?

9 MS. FULLER: No, Your Honor.

10 THE COURT: Any need for clarification,
11 Ms. Miller?

12 PROBATION OFFICER: No, Your Honor.

13 THE COURT: Well, I do impose the sentence as I
14 have announced it, Mr. Hopkins.

15 Now you have 14 days from today's date to
16 challenge any appealable issue in your case. You went to
17 trial; you were convicted by a jury. You can challenge
18 the verdict and the other matters that Ms. Fuller may
19 advise you are appealable issues, including this sentence.

20 So what you do now is if you want to appeal,
21 tell Ms. Fuller. She'll file the papers to protect your
22 appeal rights. Now, you only have 14 days from today's
23 date within which to appeal. Do you understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right.

1 Anything further, Ms. Collins?

2 MS. COLLINS: No, Your Honor.

3 THE COURT: Ms. Fuller?

4 MS. FULLER: No, thank you.

5 THE COURT: Ten years is a long sentence,
6 Mr. Hopkins, but you're a young man. You're going to come
7 out into the community again with proper supervision and
8 some guardrails in place. I'm sure you can succeed.

9 You're well -- I think in mind of what your
10 treatment needs are going forward, and those resources
11 will be there for you federally. So good luck to you,
12 sir.

13 THE DEFENDANT: Thank you, sir.

14 THE COURT: Court is adjourned.

15 THE LAW CLERK: All rise, please.

16 (End of proceedings this date at 3:27 p.m.)
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COURT REPORTER'S CERTIFICATE

UNITED STATES DISTRICT COURT)
DISTRICT OF SOUTH DAKOTA) SS
WESTERN DIVISION)

I, Sheri L. Not Help Him, RPR, CRR, Official
Court Reporter in and for the United States District
Court, District of South Dakota,

DO HEREBY CERTIFY that I acted as such Court
Reporter at the Sentencing Hearing of the within-entitled
action, and that the foregoing redacted public transcript,
pages 1 to 26, inclusive, is a true and complete
transcript of my stenographic notes taken at said
Sentencing Hearing on April 28, 2023.

Dated at Rapid City, South Dakota, this 18th day
of July, 2023.

/s/ Sheri L. Not Help Him

SHERI L. NOT HELP HIM
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